

Final

Minutes
Virginia Outdoors Foundation
Meeting of the Board of Trustees
October 1, 2002
State Capitol, House Room 2

Trustees present: Mr. Frank Kilgore, Chairman, Dr. Rupert Cutler, Ms. Katherine Imhoff, Ms. Jill Holtzman, Mr. Charles Seilheimer, and Mr. Paul Ziluca. Trustee absent: Dr. Charles Rowley.

VOF Staff Present: Tamara Vance, Executive Director, Sherry Buttrick, Faye Cooper, Kristin Ford, Leslie Grayson, Leslie Trew, and Estie Thomas. Also in attendance were Mr. Fred Fisher, Senior Assistant Attorney General, Mr. Bill Wasserman, a VOF volunteer and Ms. Babbette Thorpe from the Piedmont Environmental Council.

Chairman Kilgore convened the meeting at 10:07am. He appointed Ms. Vance as Secretary of the Meeting and she confirmed that there was a quorum present. Ms. Vance announced that approval of the minutes from the special planning meeting on September 20 would be available at the next Trustee meeting in December.

Ms. Imhoff made a motion to approve the order of business. Ms. Vance requested to move #29 to the non-consent agenda. Ms. Grayson requested to move #'s 7 and 30 to the non-consent agenda. Ms. Cooper requested to move #32 to the non-consent agenda and #38 off the agenda completely. The motion was approved unanimously with the above modifications.

Ms. Cooper indicated changes to several of the consent agenda data sheets; easement #3- mark "yes" for the cell tower provision to be included in the easement, easement #5 proposed easement terms should read "no division; one cabin not more than 800 sq. feet in livable area". Ms. Buttrick presented a correction to the data sheet for easement # 26; Special Considerations... should read "no intensive agriculture".

Ms. Imhoff made a motion to approve the consent agenda easements including #'s 1-6, 8-28, 31 and 33- 37.

Ms. Grayson presented further revisions to the VOF Guidelines. After some discussion, Mr. Ziluca made a motion to accept the proposed language changes as presented with the addition of language providing for approval of size and location of secondary dwellings. After further discussion, Mr. Ziluca withdrew his motion and made another motion to approve the revisions except for the language concerning secondary dwellings. The motion was approved unanimously. Mr. Kilgore directed the staff to continue work on the secondary dwelling language and present further revisions at the December meeting. Mr. Kilgore indicated that the current Guidelines with the approved changes should be used and disseminated as soon as possible.

Ms. Grayson presented the Wakefield Manor Farm, Inc easement (#7) of 1068.54 acres in Rappahannock County. She indicated that several of the clauses did not use the standard template language or used an older version of the template. Mr. Kilgore mentioned that a new state law requires that landowners notify the Virginia Department of Forestry 10 days before a planned timber cut. Dr. Cutler made a motion to approve the easement as presented with the direction that the landowner be made aware of the new law. The motion carried with four votes. Mr. Ziluca abstained, stating that the easement included the phrase “which approval shall not be unreasonably withheld” in several instances and that he felt the phrase weakened VOF’s legal position.

Ms. Vance presented the Pruner easement (#29) of 210 acres in Wythe County. Ms. Vance indicated that the landowners wished to delete the word “forested” in line 1, paragraph 5 and the sentence “This buffer shall be protected from degradation by livestock” from the same paragraph. But that they would agree to a vegetated “no-plow” buffer zone. Ms. Vance recommended acceptance of the easement citing the importance of protecting the nearby state park. Ms. Imhoff made a motion to accept the easement as modified. The motion was approved unanimously.

Ms. Grayson presented the Ragland Limited, LLC easement (#30) of 467.36 acres in Rappahannock County. Ms. Grayson requested that the Trustees approve two different scenarios for this easement. The first scenario being exactly as presented in the easement, the second allowing the property to be divided into 5 parcels, but limiting two of the parcels to farm buildings only with no dwellings permitted. She indicated that the landowners were considering selling a portion of the land to a neighboring farmer and wished to have some flexibility should the sale occur. Mr. Seilheimer made a motion to accept the easement including the two alternative proposals outlined above. The motion was approved unanimously.

Ms. Buttrick presented the Clark easement (#39) of 454.0198 acres in Orange County. She indicated that the language in paragraph 7c specifically allowed a secondary dwelling to be a part of a duplex unit if desired. She recommended approval of the easement terms considering the reduced number of allowable divisions. Mr. Ziluca made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Cooper presented the Gaines easement (#40) of 17.5 acres in Shenandoah County. Because of the small size of the property, Ms. Cooper recommended limiting the secondary dwelling permitted in paragraph 7 to 2500 square feet of livable space and adding the word “farm” after “All” in line 9 of the same paragraph. Mr. Cutler made a motion to accept the easement with staff recommended limits and contingent upon the acceptance of easement (#52) which was adjacent to the property. The motion failed with no second. Ms. Imhoff made a motion to accept the easement with further changes to the secondary dwelling and farm building language. The motion failed without a second. Mr. Ziluca made a motion to accept the easement with the additional language suggested by Ms. Cooper, but not contingent upon the acceptance of easement (# 52). The motion carried with five votes. Ms. Imhoff opposed due to the size of the parcel and the lack of compensating conservation values.

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Ms. Buttrick presented the Heyward easement (#41) of 263.16 acres in Nelson County. Ms. Buttrick recommended acceptance of the easement which exceeded the Guidelines for allowable parcels, due to the landowners' agreement to more restrictive language related to the allowable dwellings including elevation restrictions. Mr. Cutler made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Buttrick presented the Hollerich easement (#42) of 275.373 acres in Madison County. She described the topography of the property and the lack of stream buffers. She recommended that the Trustees approve only three of the requested five secondary dwellings. Ms. Imhoff made a motion to accept the easement as modified by the staff recommendation above. The motion was approved unanimously.

Ms. Imhoff left the meeting; Ms. Vance confirmed that a quorum was still present.

Ms. Vance presented the Kennedy easement (#43) of 100 acres in Washington County. Ms. Imhoff returned to the meeting during the discussion concerning this easement. Ms. Imhoff made a motion to accept the easement as presented. The motion was approved unanimously.

Chairman Kilgore recessed the meeting at 11:45 for lunch and then reconvened at 12: 25.

EXECUTIVE DIRECTOR'S REPORT

Ms. Vance reported on the recently enacted state tax credit sale provision, the upcoming state bond referendum and its possible impact on VOF and the proposed state budget cuts for VOF.

Ms. Grayson reported that DCR's Division of Natural Heritage had recently completed an inventory of the flora and fauna of VOF's properties in the Bull Run Mountains. She indicated that she would provide copies to any interested Trustees.

Ms. Cooper presented the Kernstown Battlefield Foundation (KBA) easement (#44) of 62 acres in Frederick County. She explained that KBA was required to place an easement on the property and because of National Park Service funding, requested that the easement be co-held by the Shenandoah Valley Battlefield Foundation. She presented the proposed co-holding agreement and indicated edits to the section on page 6 dealing with the issue of condemnation and diversion. Mr. Ziluca made a motion to accept the easement as modified by the edits. The motion was approved unanimously.

Ms. Buttrick presented the Old Rag Mountain Sportsman's Club, Inc easement (#45) of 51.692 acres in Madison County. Ms. Imhoff made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Grayson presented The Rockwood Ridge LLC easement (#46) of 385.84 acres in Clarke County. Ms. Grayson indicated that the easement included a provision to allow a windmill on the property. Mr. Ziluca requested that language be included that would give VOF approval over the siting and size of the windmill and that would specifically prohibit the windmill within view

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of the Appalachian Trail at any time of the year. Mr. Cutler made a motion to accept the easement as modified above. The motion was approved unanimously.

Ms. Grayson presented the St. Leonard's Farm, Inc. easement (#47) of 840 acres in Fauquier County. Mr. Seilheimer made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Vance presented the Tobias easement (#48) of 110 acres in Montgomery County. Ms. Imhoff made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Vance presented the Yost easement (#49) of 289 acres in Montgomery County. Ms. Vance indicated that the landowner desired to have the easement co-held with the Western Virginia Land Trust (WVLT) and that WVLT had a role in various proposed resource management on the property. She recommended that the easement be accepted although the requested parcels exceeded the current guidelines because the landowner was agreeable to large no-build zones on the property. Mr. Seilheimer made a motion to accept the easement as presented. The motion carried with five votes. Mr. Ziluca abstained from the vote because he was uncomfortable with the permitted parcels.

LOUDOUN COUNTY PDR PROGRAM

Ms. Grayson presented the Bradley easement (#50) of 52.15 acres in Loudoun County and the White easement (#51) of 132.68 acres in Loudoun County. Ms. Grayson indicated that these were the first two proposals completed in cooperation with the Loudoun County Purchase of Development Rights (PDR) Program. Mr. Ziluca made a motion to accept the two easements as presented. The motion was approved unanimously.

OPEN SPACE LANDS PRESERVATION TRUST FUND

Ms. Cooper presented the Calvert easement (#52) of 71 acres in Shenandoah County. Mr. Ziluca made a motion to accept the easement as presented. The motion was approved unanimously. Ms. Cooper went on to present the PTF portion of the easement with a request for funding in the amount of \$1,050. Mr. Ziluca made a motion to approve funding in the amount of \$1,050. The motion was approved unanimously.

Ms. Cooper presented the Martin easement (#54) of 95.22 acres in Rockbridge County. Mr. Ziluca made a motion to accept the easement as presented. The motion was approved unanimously. Ms. Cooper went on to present the PTF portion of the proposal with a request for funding in the amount of \$3,950. Mr. Ziluca made a motion to approve funding in the amount of \$3,950. The motion was approved unanimously.

Ms. Cooper presented the Young easement (#55) of 674.41 acres in Rockbridge County. Mr. Seilheimer made a motion to accept the easement as presented. The motion was approved unanimously. Ms. Cooper went on to present the PTF portion of the proposal with a request for

funding in the amount of \$3,800. Mr. Ziluca made a motion to approve funding in the amount of \$3,800.

Ms. Vance presented the Lineweaver easement (#53) of 76 acres in Pulaski County. Although, the proposed easement exceeded VOF guidelines regarding allowable parcels, Ms. Vance recommended acceptance of the easement because the landowners proposed a large no-build zone such that no residences would be visible from Claytor Lake. Mr. Seilheimer made a motion to accept the easement as presented. The motion carried with five votes. Mr. Ziluca voted against acceptance due to the relative size of the property and the two allowable parcels. Ms. Vance went on to present the PTF portion of the proposal with a funding request in the amount of \$ 3,500. Because the proposal contained a request for an extra parcel, Ms. Vance could not recommend approval of the funding request. The Trustees took no further action on this item.

Mr. Kilgore called a short recess at 1:45pm and then reconvened the meeting at 1:55pm.

Ms. Trew presented the Elzay easement (#56) of 275.05 acres in Nottoway County. Dr. Cutler made a motion to accept the easement with the addition of language that gave VOF design and siting approval in the building of a requested windmill. The motion was approved unanimously.

Ms. Vance presented the Shade easement (#57) of 140 acres in Bedford County. Ms. Imhoff made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Ford presented the Janes easement (#58) of 27.77 acres and the Rowley easement (#61) of 49.4 acres both in Loudoun County. Both of these proposals were accepted in October 1999, but were not recorded. In the meantime, a boundary line adjustment was completed with approval from Loudoun County. Mr. Seilheimer made a motion to accept both the easements as presented. The motion was approved unanimously.

Ms. Cooper presented the Preston easement (#59) of 40 acres in Botetourt County. Ms. Cooper indicated that the easement was accepted by the Trustees in October 1999, but was not recorded. She highlighted changes from the original proposal which updated the easement to the current guidelines. Ms. Imhoff made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Ford presented the Raines easement (#60) of 50 acres in Rappahannock County. Mr. Seilheimer made a motion to accept the easement as presented. The motion was approved unanimously.

Ms. Buttrick presented a request from Serena Wiley for an interpretation of the terms of an easement (FLU-VOF-635) which she donated in November 1998. According to a letter from Mrs. Wiley's lawyer, she wished to have a previous sale classified as a boundary line adjustment rather than as one of the permitted divisions of the property. Ms. Buttrick explained the staff's view that a development right and a division right had been sold previously and that Ms. Wiley's request would require adding an additional division to the property not allowed in the original terms of the easement. Mr. Ziluca made a motion to accept the staff recommendation and find

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that the previous sale of the property could not now be classified as a boundary line adjustment. The motion was approved unanimously.

Mr. Kilgore opened the public comment portion of the meeting and confirmed that this portion would now be held after the lunch break at all future meetings.

Ms. Babbette Thorpe from the Piedmont Environmental Council announced that PEC would be holding a series of training workshops on easements for all interested landowners and staff.

Mr. Kilgore asked if any Trustees had questions or concerns on any issue. Ms. Imhoff requested that staff add a comment line to the data sheet in order to explain why a particular easement would not be considered on the consent agenda. Mr. Cutler asked for an update on the Guidelines concerning the Eastern Shore Special Project Area. Ms. Trew confirmed that the Guidelines would be ready to disseminate at the December Trustee meeting. Mr. Seilheimer requested that the staff research the issue of commercial shooting ranges and how they do or do not work with easements.

Ms. Vance confirmed the date of the December Trustee meeting as Dec 5, 9:30 am.

Chairman Kilgore adjourned the meeting at 2:52 pm.

Respectfully submitted,

Estie Thomas